

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

HYDRAFACIAL LLC, formerly known as  
EDGE SYSTEMS LLC,

Plaintiff,

V.

CARTESSA AESTHETICS, LLC,

Defendant.

Civil Action No. 2:24-cv-4253

Hon. Nusrat J. Choudhury

**MEMORANDUM OF LAW IN SUPPORT OF JOINT MOTION TO STAY THIS ACTION**

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## ARGUMENT

Defendant Cartessa Aesthetics, LLC (“Cartessa”) and Plaintiff HydraFacial LLC (“HydraFacial”) jointly move to stay this action pursuant to 28 U.S.C. § 1659. The instant motion is a renewal of Cartessa’s Motion to Stay the Case in its Entirety filed July 12, 2024, which the Court denied with leave to renew. *See* Dkt. 6; Dkt. 7.

On June 10, 2024, HydraFacial filed a Complaint (attached hereto as **Exhibit A**) with the International Trade Commission (ITC) naming Cartessa and Eunsung Global Corp. as proposed respondents (“ITC Complaint”). The ITC Complaint asserts that Cartessa’s “Skinwave systems” infringe claims 1-12, 14-20, 22-26, 28-37, and 39-45 of U.S. Patent No. 11,865,287 (the “’287 Patent”). Ex. A at 1.

On June 14, 2024, HydraFacial filed a Complaint in this District naming Cartessa as a defendant (this “District Court Action”) and asserting the ’287 Patent. Dkt. 1. The Complaint accuses Cartessa’s “Skinwave System” of infringing “at least Claim 1 of the ’287 Patent.” Dkt. 1 at ¶ 24.

On July 11, 2024, the ITC instituted the investigation, Investigation No. 337-TA-1408 (“ITC Action”) and ordered that:

- (1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-12, 14-20, 22-26, 28-37, and 39-45 of the ’287 patent, and whether an industry in the United States exists as required by subsection (a)(2) of the section 337; and
- (2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “systems for treating the skin of an individual through mechanical and/or fluid-based abrasion or exfoliation”[.]

U.S. ITC, Notice of Institution of Investigation, Inv. No. 337-TA-1408 (attached hereto as **Exhibit B**).

28 U.S.C. § 1659(a) provides:

In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within—

(1) 30 days after the party is named as a respondent in the proceeding before the Commission, or

(2) 30 days after the district court action is filed,

whichever is later.

The District Court Action concerns a “claim that involves the same issues involved in the proceeding before the Commission” since the ’287 Patent is the sole patent asserted in each action. This request was filed within 30 days of the ITC’s Notice of Institution of Investigation, which names Cartessa as a respondent in the ITC action and is dated July 11, 2024. *See* 28 U.S.C. § 1659(a)(1). This request was also originally filed within 30 days of the Complaint in the District Court Action. *See* 28 U.S.C. § 1659(a)(2).

Thus, it is proper to stay the present action “until the determination of the Commission becomes final.” 28 U.S.C. § 1659(a).

Dated: July 19, 2024

Respectfully submitted,

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